

DEPARTMENT OF LAND AND NATURAL RESOURCES
Amendment and Compilation of Chapter 13-233
Hawai'i Administrative Rules
January 25, 2008

SUMMARY

1. §§13-233-1 and 13-233-3 are amended.
2. §§13-233-5 to 13-233-8 are amended.
3. §13-233-14 is repealed.
4. §13-233-20 is amended.
5. §13-233-24 is repealed.
6. §§13-233-26 to 13-233-31 are amended.
7. §13-233-34 is amended.
8. §§13-233-40, 12-233-42, and 13-233-43 are repealed.
9. §13-233-44 is amended.
10. Exhibits "1," "2," and "3" are repealed.
11. Chapter 233 is compiled.

HAWAI'I ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 11

OCEAN RECREATION AND COASTAL AREAS

PART I SMALL BOAT HARBORS

CHAPTER 233

MOTOR VEHICLE AND PARKING RULES

Subchapter 1 Motor Vehicle Rules

- §13-233-1 General statement; traffic code
and county ordinances
- §13-233-2 Licensing and safety inspection
- §13-233-3 Operation of motor vehicles
- §13-233-4 Traffic controls
- §13-233-5 Speed restrictions
- §13-233-6 Parking
- §13-233-7 Public parking
- §13-233-8 Removal of vehicles
- §13-233-9 Application
- §13-233-10 Parking in construction areas and on
special occasion
- §13-233-11 Repealed
- §13-233-12 Repealed
- §13-233-13 Operation, parking, or storage of
bicycles or play vehicles
- §13-233-14 Repealed
- §§13-233-15 to 13-233-19 (Reserved)

Subchapter 2 Paid Parking Zones

- §13-233-20 Establishment of paid parking zones

§13-233-21	Repealed
§13-233-22	Repealed
§13-233-23	Repealed
§13-233-24	Repealed
§13-233-25	Repealed
§13-233-26	Charges for parking
§13-233-27	Charges for enclosure or obstruction of paid parking stall, incidental to construction, etc
§13-233-28	Harbor tenants - parking permits
§13-233-29	Eligibility for parking permits; fee per vehicle
§13-233-30	Replacement of mutilated stickers
§13-233-31	Transfer of permits
§13-233-32	Cancellation of permits
§13-233-33	Revocation of parking permits
§13-233-34	Violations and penalties
§§13-233-35 to 13-233-39	(Reserved)

Subchapter 3 Vessel Owner Parking Zone

§13-233-40	Repealed
§13-233-41	Repealed
§13-233-42	Repealed
§13-233-43	Repealed
§13-233-44	Violations and penalties

Historical note: This chapter is based on motor vehicle and traffic rules, parking meter zones, and vessel owner parking zones of the small boat harbors rules, effective November 5, 1985, and as amended thereafter, under the jurisdiction of the Department of Transportation, Harbors Division. The administrative jurisdiction of recreational boating and related vessel activities was transferred from the Department of Transportation, Harbors Division to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, effective July 1, 1992, in accordance with Act 272, SLH 1991. [Eff 2/24/94]

SUBCHAPTER 1

MOTOR VEHICLE RULES

§13-233-1 General statement; traffic code and county ordinances. The Statewide Traffic Code, chapter 291C, Hawai'i Revised Statutes, as amended, and any other applicable ordinances of the particular county in which a small boat harbor is located, shall apply to the operation of motor vehicles on the parking areas and roadways of a small boat harbor just as though the parking areas and roadways are a part of the public streets, roads, or highways of the particular county involved, and by reference, are incorporated in these rules and made a part hereof as though fully recited in these rules. [Eff 2/24/94; am and comp APR 05, 2008] (Auth: HRS §§200-2, 200-3) (Imp: HRS §§200-2, 200-3)

§13-233-2 Licensing and safety inspection. No vehicle shall be operated or parked at a small boat harbor unless such vehicle is currently licensed by the appropriate governmental agency and has the required evidence of safety inspection. [Eff 2/24/94; comp APR 05, 2008] (Auth: HRS §§200-2, 200-3) (Imp: HRS §§200-2, 200-3)

§13-233-3 Operation of motor vehicles. No motor vehicle shall be operated in a small boat harbor in a careless or negligent manner or in disregard of the rights and safety of others, or without due caution or circumspection, or at a speed or in a manner which endangers or is likely to endanger person or property, or while the operator thereof is under the influence of an intoxicant as defined under chapter 291E, Hawai'i Revised Statutes, or if the vehicle is so constructed, equipped, loaded, or in a condition which would endanger or be likely to endanger other persons or other person's property. [Eff 2/24/94; am and comp APR 05, 2008] (Auth: HRS §§200-2, 200-3) (Imp: HRS §§200-2, 200-3, 291E-61 et seq.)

§13-233-4 Traffic controls. All vehicular traffic shall comply with any lawful order, notice,

signal, or direction of any regular or special police officer. When such traffic is controlled by signs and pavement markings, the signs and markings shall be obeyed unless a regular or special police officer directs otherwise. [Eff 2/24/94; comp APR 05, 2008] (Auth: HRS §§200-2, 200-3) (Imp: HRS §§200-2, 200-3)

§13-233-5 Speed restrictions. (a) Basic rules and maximum limits.

- (1) No person shall drive a vehicle on a roadway or in any parking lot maintained within a small boat harbor at a speed greater than is reasonable and prudent under the existing conditions. Vehicular speed shall be controlled as necessary and with due care to avoid colliding with any person, vehicle, or other structure.
- (2) Except when a special hazard exists that requires lower speed for compliance with paragraph (1) the limits specified in this section or established as authorized by this section shall be maximum lawful speeds, and no person shall drive a vehicle on a roadway or in any parking lot within a small boat harbor at a speed in excess of these maximum limits:
 - (A) Ten miles per hour. Any pier, wharf, other structure, or parking lot.
 - (B) Fifteen miles per hour. Any roadway eighteen feet or less in width.
 - (C) Twenty five miles per hour. Any roadway where the speed limit has not been otherwise established.
- (3) The maximum speed limits set forth in this section may be altered as authorized in subsection (b).
- (4) The driver of every vehicle shall, consistent with the requirements of paragraph (1), drive at an appropriate reduced speed when approaching and going

around a curve, when traveling upon any narrow or winding roadway, when a special hazard exists with respect to pedestrians or other traffic by reason of weather or road conditions, and unless directed to stop by a police officer or traffic control device, when approaching and crossing an intersection.

- (5) Whenever the department determines upon the basis of an engineering and traffic investigation that any maximum speed limit established in this section is greater than is reasonable or safe under the conditions found to exist at any horizontal or vertical curve upon any part of a roadway, the department may post a recommended safe speed thereat which shall serve as a guide to vehicle drivers at all times when using the road.

(b) Establishment of speed zones. Whenever the department determines upon the basis of an engineering and traffic investigation that any maximum speed set forth under subsection (a) is less than is reasonable under the conditions found to exist at any part of a small boat harbor roadway system, the department may determine and declare a reasonable and safe maximum limit thereat, which shall be effective when appropriate signs giving notice thereof are erected. The maximum speed limit may be declared to be effective at all times or at such times as are indicated upon the signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate signs.

- (c) Special speed limitation.

- (1) No person shall drive any vehicle equipped wholly or partly with solid rubber tires at a speed greater than ten miles per hour.
- (2) No vehicle transporting any explosive as cargo or part of a cargo shall be operated upon any roadway in a small boat harbor at a speed in excess of twenty miles per hour.

§13-233-5

(d) Speed contest. It shall be unlawful for any person to engage in, or to aid or abet by whatever means, any motor vehicle speed contest or exhibition of speed within a small boat harbor.

(e) Speed restrictions not applicable to emergency vehicles. The speed restrictions set forth in this section shall not apply to an authorized emergency vehicle when responding to an emergency call, or when used in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm. [Eff 2/24/94; am and comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-233-6 Parking. Except as otherwise authorized by the department, no person shall stop, park, or permit to remain halted, a motor vehicle in a small boat harbor:

- (1) In front of a driveway or land side of a launching ramp;
- (2) For the purposes of washing, polishing, greasing, or repairing of a vehicle except for those minor repairs necessary to remove the vehicle to an authorized area or from a small boat harbor;
- (3) Other than in accordance with officially posted signs; or
- (4) For more than 24 hours without a valid parking permit issued by the department, not to exceed a maximum of 120 hours. [Eff 2/24/94; am and comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-233-7 Public parking. As may from time to time be prescribed by the department, no person shall use any public parking area without payment of parking fees and charges and may only park in areas designated by the department. The department may establish such areas by signage as convenient and efficient public

use of a small boat harbor may dictate. [Eff 2/24/94; am and comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-233-8 Removal of vehicles. The department shall have the authority to detain, tow, move, or cause to be moved to an impounding area, at the owner's risk and expense and without liability for any damage which may result, any motor vehicle:

- (1) For nonpayment of parking charges when the vehicle is parked in parking areas operated by the department or authorized representative, in a small boat harbor;
- (2) Which has been parked continuously anywhere in a vehicular parking area operated by the department or authorized representative in a small boat harbor for a period exceeding the posted time limits, except when prior arrangements have been made therefor;
- (3) When the position or location of the vehicle in a small boat harbor creates a nuisance or a hazard; provided, that any detention, towing, or moving, done or caused to be done by the department or authorized representative, of any vehicle legally parked at a small boat harbor, shall not be at the owner's risk and expense;
- (4) When parked in violation of section 13-233-6; and
- (5) When any vehicle is used in any way for commercial or business use for storage of equipment or other business-related activity without a valid permit issued by the department. [Eff 2/24/94; am and comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-233-9 Application. These rules shall apply with equal force to motor vehicles on lease, rent, or loan to any person. The owner or operator of any motor vehicle using facilities or space within a small

§13-233-9

boat harbor shall be subject to all charges, rules, and conditions as prescribed by these rules. [Eff 2/24/94; comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-233-10 Parking in construction areas and on special occasion. The chairperson may whenever in the chairperson's judgment it is deemed necessary, prohibit or restrict the parking of any vehicle on either or both sides of any roadway, parking lot, or other location or portion thereof, constituting all or part of an area affected by construction, repairs, or maintenance activities, a part of the route of a parade or a procession, or on any special occasion, and also upon any roadway, parking lot, or other location adjacent thereto by the erection or placement of temporary signs setting forth such restrictions. When the signs are erected or placed prior to construction, repairs, maintenance, parade, procession, or special occasion, it shall be unlawful to park or leave unattended any vehicle in violation of the signs. The department may remove or cause to be removed at the owner's expense, any vehicle left unattended or parked in violation of the signs. [Eff 2/24/94; comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-233-11 Repealed. [R 6/28/00]

§13-233-12 Repealed. [R 6/28/00]

§13-233-13 Operation, parking, or storage of bicycles or play vehicles. (a) This section is applicable only in Ala Wai and Keehi boat harbors. As used in this section, "bicycle" means every device propelled by human power upon which any person may ride, having two tandem wheels which are sixteen inches in diameter or greater, and including any device generally recognized as a bicycle though

equipped with two front or two rear wheels.

(b) Effect of section.

- (1) The parent of any child or the guardian of any ward shall not authorize or knowingly permit the child or ward to violate this section.
- (2) This section applicable to bicycles and play vehicles shall apply whenever a bicycle or play vehicle is ridden, operated, parked, or stored within the confines of a small boat harbor.

(c) Bicycle tax. No bicycle shall be used for conveyance of any person within the confines of a small boat harbor unless the annual tax has been paid and a valid license tag is attached to the bicycle in accordance with section 249-14, Hawai'i Revised Statutes.

(d) Riding on sidewalks or piers. The department may erect signs on any sidewalk, roadway, pier, wharf, catwalk, or other location prohibiting the riding of bicycles thereon, and when such signs are in place, no person shall disobey the same.

(e) Parking or storage of bicycles. No person shall park, store, place, or leave a bicycle on catwalks, piers, sidewalks, roads, parking areas, or any other public area except in bicycle parking racks.

(f) Traffic and bicycle equipment laws applicable to persons riding bicycles. Every person riding a bicycle within the confines of a small boat harbor shall be granted all the rights and shall be subject to all the duties applicable to the bicycle operator and to the driver of a vehicle by chapter 291C (Statewide Traffic Code), Hawai'i Revised Statutes, which by reference is hereby incorporated in these rules and made a part hereof as though fully recited herein, except as to those provisions of chapter 291C which by their nature can have no application to a bicycle operator. [Eff 2/24/94; comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-233-14

§13-233-14 REPEALED. R APR 05, 2008]

§13-233-15 to §13-233-19 (Reserved)

SUBCHAPTER 2

PAID PARKING ZONES

§13-233-20 Establishment of paid parking zones. Paid parking zones may be established at small boat harbors and facilities and shall be so designated by signage. [Eff 2/24/94; am and comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-233-21 Repealed. [R 6/28/00]

§13-233-22 Repealed. [R 6/28/00]

§13-233-23 Repealed. [R 6/28/00]

§13-233-24 REPEALED. [R]

§13-233-25 Repealed. [R 6/28/00]

§13-233-26 Charges for parking. Charges will be made and collected for parking, stopping, or standing a vehicle in paid parking zones equal to or less than county rates. [Eff 2/24/94; am and comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

13-233-27 Charges for enclosure or obstruction of paid parking stall, incidental to construction, etc. (a) Before any person, other than any governmental agency, shall enclose, obstruct, or cause to be enclosed or

obstructed any parking stall or portion thereof, incidental to erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, or demolishing any building or structure, or for other reasons, that person shall obtain a permit from the department and pay to the department a sum calculated at the rate currently being charged for each such parking stall for each day or fraction thereof, during which the stall shall be so enclosed or obstructed.

(b) No permit to enclose or obstruct a parking stall shall be issued to any person to whom the foregoing provision is applicable until the person shall have made a deposit of the calculated sum, based on the estimated number of days during which the parking stall shall be so enclosed or obstructed. The person shall notify the department immediately upon termination of the enclosure or obstruction. [Eff 2/24/94; am and comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-233-28 Harbor tenants - parking permits. Notwithstanding any other provisions of this subchapter to the contrary, a person may park a motor vehicle in a parking stall in a pay-for-parking zone, in excess of the time limit and without payment for the parking stall, if the person has been issued a parking permit and displays a valid parking sticker (decal) issued to that person by the department, on the left hand side of the rear bumper or as near thereto as the configuration of the motor vehicle permits, or has been issued a temporary parking permit and displays this temporary parking permit in or on the vehicle so as to be clearly visible from the outside. [Eff 2/24/94; am and comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-233-29 Eligibility for parking permits; fee per vehicle. (a) Persons eligible for the parking permits described in section 13-233-28 and the fees for the permits are as follows:

<u>Eligible persons</u>	<u>Fees Per Vehicle</u>
(1) An owner holding a valid use permit (permittee) authorizing the mooring of the owner's vessel at the small boat harbor, and any co-owner of the vessel.	\$25 per month
(2) The master, spouse of each owner and their legal dependents 18 years of age or older.	\$25 per month
(3) An owner or co-owner holding a valid use permit authorizing the mooring of the owner's vessel at the small boat harbor may secure a temporary parking permit, for use by bona fide guests accompanying the owner on board the vessel on a voyage outside the confines of the small boat harbor.	\$10 for each 24-hour period or fraction at thereof
(4) An owner or employee of a firm, business, or organization operating under a lease or other agreement authorizing the owner, employee, firm, business, or organization to engage in a business or commercial activity at the small boat harbor.	\$90 per month
(b) Fees for permits issued after the first month of a calendar quarter shall be prorated on a monthly basis.	
(c) Except as provided in subsection (a)(2), not more than one parking permit shall be issued to a person eligible for a parking permit. [Eff 2/24/94; am and comp APR 05, 2008] (Auth: HRS §§200-2,	

200-4) (Imp: HRS §§200-2, 200-4)

§13-233-30 Replacement of mutilated stickers. The eligible holder of a parking sticker that becomes mutilated or illegible shall apply for and be issued a replacement sticker if the mutilated or illegible sticker is surrendered to the department. A fee of \$15 shall be paid prior to the issuance of a replacement sticker. [Eff 2/24/94; am and comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-233-31 Transfer of permits. The holder of a parking sticker may upon surrender of a parking sticker apply for and be issued another parking sticker to be applied to another vehicle owned by the holder. A fee of \$15 payable in advance shall be paid prior to the issuance of a new sticker. [Eff 2/24/94; am and comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-233-32 Cancellation of permits. The holder of a valid parking permit who disposes of the vehicle for which the permit was issued or who otherwise desires to cancel a parking permit may obtain a credit or refund as appropriate for any remaining unexpired month or months, upon surrender of the parking sticker to the department. No credit or refund shall be given for portions of a month. [Eff 2/24/94; comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-233-33 Revocation of parking permits. The department reserves the right to further restrict the issuance of parking permits to those who observe the small boat harbors rules and make full and timely payments of fees and charges. A parking permit may be revoked as provided in section 13-231-6. Upon revocation the permittee shall surrender the parking

sticker issued by the department. [Eff 2/24/94; comp APR 05, 2008] (Auth: HRS §§200-2, 200-4)(Imp: HRS §§200-2, 200-4)

§13-233-34 Violations and penalties. (a) It shall be a violation of this part for any person:

- (1) For failure to pay the posted fees.
 - (2) To park, stop, or stand any vehicle across any line or marking of a paid parking stall or in such position that the vehicle shall not be entirely within the stall designated by the lines or markings.
 - (3) To park, stop, or stand a towing vehicle with a boat trailer attached in any non-designated vehicle/trailer paid parking stall.
 - (4) To permit another person not entitled thereto, to use or have possession of a parking sticker.
 - (5) To alter, forge, counterfeit, or imitate a parking sticker.
 - (6) To possess or use a parking sticker, knowing it to have been altered, forged, counterfeited, or imitated.
 - (7) To avoid or attempt to avoid compliance with this section by affixing to a vehicle, a parking sticker not authorized by the department.
 - (8) To enclose, obstruct, or cause to be enclosed or obstructed any paid parking stall or portion thereof unless a permit has been obtained from the department as required in section 13-233-27.
 - (9) To deface, injure, tamper with, open or willfully break, destroy, or impair the usefulness of any parking pay station installed under the provisions of this part.
 - (10) To disregard any official direction, instruction, or restriction indicated by or on official signs posted in a paid parking zone.
- (b) A person who has violated this section may

be fined as provided in section 13-230-4. [Eff 2/24/94; am and comp APR 05, 2008](Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-233-35 to §12-233-39 (Reserved)

SUBCHAPTER 3

VESSEL OWNER PARKING ZONE

§13-233-40 REPEALED. [R APR 05, 2008]

§13-233-41 Repealed. [R 6/28/00]

§13-233-42 REPEALED. [R APR 05, 2008]

§13-233-43 REPEALED. [R APR 05, 2008]

§13-233-44 Violations and penalties. (a) It shall be a violation of this subchapter for any person:

- (1) To cause, allow, permit, or suffer any vehicle within that person's control to be parked, or stopped, in any small boat harbor or in non-designated vehicle/trailer parking unless the vehicle displays a valid parking sticker or temporary parking permit issued by the department.
- (2) To park, stop, or stand any vehicle across any line or marking of a parking space or in such position that the vehicle shall not be entirely within the stall designated by such lines or markings.
- (3) To permit another person not entitled thereto, to use or have possession of a parking sticker.
- (4) To alter, forge, counterfeit, or imitate a

parking sticker.

- (5) To possess or use a parking sticker, knowing it to have been altered, forged, counterfeited, or imitated.
- (6) To avoid or attempt to avoid compliance with this subchapter by affixing to a vehicle, a parking sticker not authorized by the department.
- (7) To disregard any official direction, instruction, or restriction indicated by or on official signs posted in any small boat harbor parking area.

(b) A person who has violated this subsection may be fined as provided in section 13-230-4." [Eff 2/24/94; am and comp APR 05, 2008] (Auth: HRS §§200-2, 200-4) (Imp: HRS §200-2, 200-4)

Amendments to and compilation of chapter 233, title 13, Hawai'i Administrative Rules, on the Summary Page dated January 25, 2008 were adopted on January 25, 2008, following public hearings held on O'ahu and Hawai'i island on December 19, 2007, on Kaua'i on December 22, 2007, on Lana'i on December 27, 2007, and on Maui on December 28, 2007; after public notices were given in the Honolulu Star-Bulletin, Hawaii Tribune-Herald, and West Hawaii Today on November 19, 2007; the Maui News on November 21, 2007; and the Garden Island on November 22, 2007.

They shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/LAURA H. THIELEN
Chairperson
Board of Land and Natural
Resources

/s/LINDA LINGLE
Governor
State of Hawai'i

Dated: MAR 24, 2008

APPROVED AS TO FORM:

/s/COLIN J. LAU
Deputy Attorney General